App. F. IX-4

Previous References

1927-28 Legn

File No. 40-27

Serial Nos. 42

Later References

General and Revenue Secretariat.

Serial Nos.

Part B for Part I

SUBJECT

Bill to facilitate the enforcement of Maintenance orders in His Majesty's Dominions & Protectorates & Reciprocating

filed.
10-7 Gen
15/8/30

G. R. S. 11]

1924-25

C 442 of 26-27

GENERAL AND REVENUE SECRETARIAT.

(~~C~~ P.P.)

NOTES.

48-24

P P File No. ~~444~~ 23

FILE HEADING.

Execution in mysore of maintenance orders of British Courts

From

The Secretary to the Hon'ble the Resident

No. 10415 Dated 14-12-23 Received 18-12-23

Diary No. 2642	Enclos. 3 Spare Copies.	Serial No. /.

BRIEF ABSTRACT OF LETTER.

Requests the views of Govt. on the question of reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders.

NOTES AND ORDERS.

(1) The proposal is very desirable as it cements the ties between the Native States and the British Empire. As it is, the decrees and orders of the Courts of England are treated as foreign decrees as the Courts in England are neither established nor continued by the Government

Serial No.

in Personal. All kinds of Reflections may be taken in the Court executing the decree so as to delay execution.

But looking at the other side, it is submitted that so far as Mysore is concerned, there is no necessity for passing such a Regulation. Because there will be few and far between. The cases that will have to be executed in Mysore may be much more. As Mysore advances in its commercial relations with England cases may arise. But it is a future contingency.

(2) As the Government of India have agreed and as they have passed necessary legislation in the matter, the question will have to be dealt with here also

Submitted for orders

28/12/25 (3) The Resident wants to know the views of this Government on the question of reciprocity in enforcing maintenance orders between this region state & England & Br. India through the Code of Civil Procedure

(4) Regulation provides for the execution and enforcement of foreign decrees in any foreign Reparte decrees cannot be executed or enforced against non-resident who does not submit to the jurisdiction

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

P.P 48 1926-25 3

~~65~~ File No. ~~44~~ of 19 ~~24~~

Serial No.

Cannot be enforced in Burma. Vice versa with regard to decrees passed in Burma against non resident foreigners. Orders under section 488 Cr. Pro. code passed in British India or in Burma cannot be enforced in Burma or British India respectively.

(5) So a person in needy circumstances who obtains a decree or order for maintenance was in a court in British India or Burma or the United Kingdom was unable the enforcement of the decree or order by Crossing the Seas.

(6) It is to alleviate this disadvantage and to offer facilities for the enforcement of maintenance orders the Maintenance orders (facilities for enforcement) Act of 1920 was passed in the United Kingdom and a similar Act XVIII of 1921 was introduced in Br. India vide

(7) Under these Acts His Maj the King in Council or the governor general in Council as the case may be, may extend the provisions of these Acts to any part of His majesty's dominions where a reciprocal provision is made by its legislature these Acts provide a simple p-

NOTE—Contn. sheet.

Serial No.

for the mutual enforcement of the order of maintenance in the ~~the~~ parts of the M's Commissions respectively.

(8) The introduction of a similar Regulation in respect would afford facilities for enforcing orders of maintenance made by Courts in respect, in British India, whereas occasions for enforcing them in the United Kingdom would be very rare.

(9) The respect shall seems to come within the purview of the Act of 1920 and the Act of 1921 and a Regulation on the lines of those Acts may with advantage be introduced in respect

Put up. Please see with the file.

28/6

Ldleg

347.

2. As there are many Europeans & British Subjects residing within the State & as it may be found necessary to pass maintenance orders in terms of the where such persons may sojourn & leave the country it is desirable that an Act similar to the one passed by the Govt of India Legislature may be introduced into our Legislature & passed.

1256
8.8.24

(11) After such a Regulation is passed, H. M. the King in Council shall extend the Act of 1920 as it is now the case of British India.

1st Member.

8/8 7/8

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

PP 20-25 5

~~C~~ File No. 44 of 19~~2~~3,

Serial No.

(12) But why should we not legislate independently & why should we make an express Act applicable to this Province also —

Trial between Hindu & Hindu

Legislation

Hindu
3/9
84
4-9
~~8~~
4-9.

(13) Subject - Legislation may be undertaken on the lines of the Govt. of India Act XVIII of 1921 provided reciprocal arrangement is agreed to. Latest Territories should come under "reciprocating territory" is for consideration. (Vide para 7 of S. 2 of the Act) It may be difficult to get reciprocal arrangement with the United Kingdom as the provision in the maintenance orders Act of 1920 seems to cover only cases of His Majesty's Dominions. Whether Mysore is a ~~Foreign~~ Dominion) is for consideration.

8/12/24

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat.

PP 48 2[illegible]

[illegible] File No. 114 of 19[illegible]

Serial No.

(14) ? head a personal interview with the Secretary the words authorities & any portion that the Dragons state is a part of British dominions.

8-9

15) In another connection in Colin file 244 of 23 the question of has been raised & the opinions of the [illegible] & Ld. Secy is on record. Sahib will with that opinion

2811/10/9

71. Q. in Civil Office

Secy

[illegible] 9[illegible]

3) In the book 71: Q the Ld Secy has shown that the Dragons State is included in the expression "British dominions"

In his book on "The Indian Constitution" page 187 Mukherjea is also of the same opinion

LHSec.

10/9

12th number) -

8/10.9

17) There are not many cases ... 10.9

There are that have ? European British subjects

Rs claiming Magisterial orders for maintenance - Will the Govt. ? Magistrates refuse to entertain no application of the Govt. upon maps to the Magistrates

[illegible]

11.9 8/11-9 11.9

NOTE—Contn. sheet.

G. R. S. III-2

General and Revenue Secretariat.

File No. 4411 of 1924

DEVI[illegible]N'S OFFICE,
REGD. 18 SEP. 1924
Reg. No. 2308

Serial No.

18) Lord with a draft
&
13.9.24
Ld
Secy
1st member

2511
16.9.24

19) Appd. Please issue
order for approval of the above
Secy
17/9
Dewan

20) This is a political
matter. So Obr
Myderabad for Hts'
Appl.
Yr
Lo.

Chief Sec
with Compts.

21) This should have been dealt
with in P. W. Section.
A.S.N. myderabad Pump
Mysore, Boiler results
me

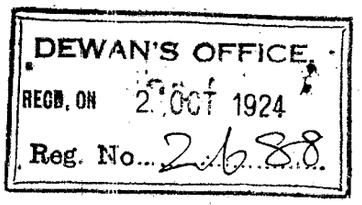
NOTE—Contn. sheet.

G.R.S. III-21

File No. of 19

General and Revenue Secretariat

Serial No.



NOTE—Contn. Shee

Submitted to His Highness.

23 These papers relate to the subject of reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders.

24 2. In the United Kingdom, an Act known as Maintenance Orders (Facilities for Enforcement) Act 1920 is in force. This Act provides for extending its provisions to any country within the British Dominions if the latter introduces similar legislation within its jurisdiction. The Act provides for enforcing orders of maintenance made by the courts of one country in the courts of the other where reciprocal provisions have been made by the legislature.

25 3. The legislature of British India have passed an Act known as "The Indian Maintenance Orders Enforcement Act, 1921" and thus the Act of 1920 of the United Kingdom was extended to British India.

26 4. The Hon'ble the British Resident has requested the favour of the views of the Mysore Government on the question of reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders, pointing out the advantages of having reciprocity in this matter between the Mysore State and British India also.

27 5. It is advantageous to introduce a similar Regulation in Mysore, as at present there are no provisions for enforcing maintenance orders of Mysore in any of the countries in the British Dominions. Orders for maintenance under Section 488 of Criminal Procedure Code and Exparte decrees for maintenance against non-resident foreigners passed in Mysore cannot be enforced anywhere outside Mysore.

9

28

Page 6 of Office Note

6. The First Member of Council is of opinion that though there are not many cases - and in fact, none - of European subjects obtaining orders from Magistrates for maintenance, there is no objection to introduce similar legislation in Mysore.

29 I concur with him.

7. The draft letter to the Residency herewith submitted may

30 graciously be approved.

Camp Mysore,
2nd October 1924.

2 . 10 . 1924

SGN.

10 11

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Draft letter to the Residency on the subject of reciprocity between the Mysore State and England in regard to the enforcement of Maintenance Orders.

249

31

Order.

~~KRM~~
31/10/24

32 Chiparcy

33

4086/P/24

F. R. S. III·2]

WD 2310—GPB—10,000—31-5-24

General and Revenue Secretariat.

P.P File No. 48 of 1924

Serial No.	
2	To Hon'ble Sec. to the Resident no Pol 322 dt 9.10.1924 states that the Govt. of H.H. the Maharaja have no objection to introduce legislation in the matter

Subs 4/2

By Subd. There seems to be no point in keeping this file in Srs. The question has to be taken up in the Legve Deptt. It is therefore proposed to send this to the Protection Branch for note of orders and return before the file is recorded. For orders.

Sd/ 19/3/25 Sd/ 20/3

Sd Secy to Resident

Mw 24/3

Prot. Branch

Sd/ 28/3

Ag

1 A.

26/3.

Govt have promised the Residency that they will undertake legislation in the matter. The P&P Section as administrative department will have to take action and propose on what lines the legislation has to be undertaken and they propose to

NOTE—Conton. sheet.

Serial No.

The legislative section for framing a bill hence this may be returned to P & P section for needful

A bill has perhaps to be drafted with the aid of the Indian maintenance orders enforcement Act 1921 referred to in para 2 of the discussion note to H H in the file.

21/3/25

38 Put up Hon'ble M.M. see the Question of legislation.

28/3

38

Sent with a copy of the G. M. referred to. (Flag B)

27/3/25

40 The stages (a) & (b), though they should have been taken in the P & P section, have passed.

(c) The file is stage (c) & so the legislative deptt will have to prepare the preliminary draft. Transfer this to the legis section.

28/3

Legis 28/3

Serial No

42

The British Indian Act of 1921 may perhaps be adopted with necessary changes indicated herein Section 4 (2) and 8 (1) may perhaps be omitted as the Chief Court has not been exercising original Civil jurisdiction.

U.S.V
29.8.25.

43 4/28
9/2/27

Log 1
9/2

64

Draft Bill on the lines of recent Act of India Act XVIII of 1921 is put up for Consideration. Sees 4(2) & 8(1) are omitted as directed above.
8.4.27.
28/4

45 A draft Bill is framed & approved, & a statement of general principles will be put up for the Rule.

(Sees 1-10)
9/5

4-b 12th inst.
8/
20/5
21/5

1200/4
21/5/27

This has been greatly delayed & I am afraid the points have not been fully argued. A recent Resident letter has not been received. I do not know what the position is. Civil Courts Orders presume our orders are executed in Part. India &

Note—Corn. Sheet

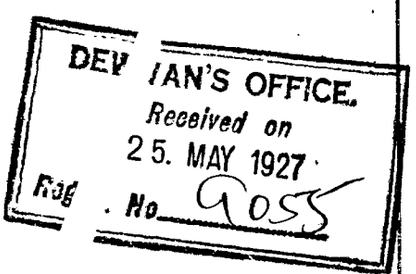
5378 926

13

[App. F. III—2

General and Revenue Secretariat | P&R File No. 48 | of 1924.

Serial No



Case what do you propose re order for Draft states? Endt not Residencies be addressed simultaneously.

47 I agree to the proposed bill. It may be subt to Dewan & if he approves, Circulated.

Lee
23/5/27.

48 Dewan.

Sec 3 of the Govt. India Act 23/5
provides for repealing by an order in Council, which seems expdt. The bill may be circulated & DP if pursuit of Dewan approve.

Lee
25/5

Dewan) 25/5

49 m
26/5

12174
26/5

I member) 50 Please circulate as ordered by Dewan & DP

mm 26/5
26/5

Lee
27/5

mm 27/5

12618
6/6

Lee
31/5

51 Draft final note is submitted

I member)
28
30/5

Statement of principles has been sent to R.H. the

F.N. Signed by

NOTE—Contn. Sheet 12499 28/5 Lee 30/5

App. F. III—2]

WD 0569—GPB—40,000

File No. of 192

General and Revenue Secretariat

Serial No.

14

(For Disposal by Circulation.)

No. C.442

8 19.26-27.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Pnotectorates and Vice-Versa.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

28th May 1927.

Chief Secretary to Government.

~~Extraordinary Member of Council.~~

55

12310/30/5 **First Member of Council.** I agree 10/6/30/5

56

7132/28/5 **Second Member of Council.** I agree 29.5.27

Third Member of Council. (on leave) ~~Proposal agreed to.~~

12358/30/5

15

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

DIWAN'S OFFICE.
Received on
7 JUN. 1927
Reg. No. 9540

Serial No.

Dewan

Please put up
S.N.
28/7.6

S.M. Subd
7/6

57

M2
8.6.27

8/7-6
8/7.6

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

16

Final Note by the First Member of Council.

Subject :—

Bill to facilitate the enforcement of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa.

In the Submission Note dated the 2nd October 1924 a draft letter to the Residency in respect of the reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders was submitted for His Highness' gracious approval. Upon His Highness gracious approval the letter to the Residency was issued.

A draft Bill on the lines of the British Indian Act No.XVIII of 1921 is prepared and a statement of the general principles of the Bill to be placed before the Representative Assembly is submitted for His Highness gracious approval. After approval by the Representative Assembly the Bill will be placed before the Legislative Council.

K. Chandy

MEMBER OF COUNCIL.

Bangalore,
6th June 1927.

17 11?

Submitted to His Highness.

62 *I submit herewith a Final Note by the* First *Member of Council on the subject of* Bill to facilitate the enforcement of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa *for His Highness' gracious approval.*

Mirza M. Ismail

Dewan.

8-6-27

28
2/6/27

18 C

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Bill to facilitate the enforcement of Maintenance Orders in His Majesty's Dominions and Protectorates and vice versa.

867

63

Order.

~~KRW~~
10/6/27

64

C. by
Jm
10.6.27

Encld.

19

The file has now been sent to members of Council for the perusal of H.H's orders.

Perhaps this may be done after the R.A meetings are over, where the file may be required for reference.

12/6/27 AHW 12/6

12/6

Resubmitted per circulation of H.H's orders.

AHW 19/2/27 To Mr Lupton, C.B., with Compts

AHW 20/2

5378/26 CRO 11

General and Revenue Secretariat.

C442

Bill to facilitate the enforcement of Maintenance orders in His Majesty's Dominions and Protectorates and vice versa.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Govt.

Through the Secretary to Government.

.....Law.....Department.

16

11.6.27

13055/20/6

FIRST MEMBER OF COUNCIL. 4/6

20/6

7653/21/6

SECOND MEMBER OF COUNCIL. 21-6-27

3602/21/6/27

THIRD MEMBER OF COUNCIL. 21/6

Note—Contn. sheet.

Secy., Law Deptt., with Compts.

Mono WD 1190—GPB—500 9-1-23.

23/6

General and Revenue Secretariat. | File No. of 192

Serial No. 74

(Court Fees Regn)

The 1st Member was pleased to order in and on file as follows:-

"I D.C, or P.C and L.R.C. of the Bills to be amended to for L.C except the Court Fees. Final drafts to be accepted by the Executive Council."

In pursuance of the above instructions this file re Bill to facilitate the enforcement in Burma of Maintenance orders made in His Majesty's Dominions and Protectorate is herewith laid for orders.

Bill 21.4.24 - The draft bill has been agreed to by the Members of Council & Dewan the further action to be taken is for orders

In the case of Bills, whose general principles were approved by the EA, it was the practice to skip over the first stage in the Legislative Council, viz asking for leave to introduce the Bill, & to publish the Bill with the Sanction of the Dewan under Rule 8 of the Rules of Business & proceed to the second stage at the Council, viz reading the Bill & referring it to the Select Committee.

In the present instance the principles

NOTE—Contn. sheet

WD 0324 -GPB-60,000--24 5-27

76

Extracts of the R.A. Proceedings relating to this subject are copied below:--

"BILL TO FACILITATE THE ENFORCEMENT IN MYSORE OF MAINTENANCE ORDERS MADE IN HIS MAJESTY'S DOMINIONS AND PROTECTORATE AND vice-versa.

(Here enter the statement of objects and reasons).

The motion was not passed by the House as a large majority voted against it."

23/7

23/7

23/7

5378/26
C11

22

App. F. III—2

General and Revenue Secretariat. | File No. of 192

Serial No.

of the Bill were not approved by the R.A at the last session, ~~xxxxxxxxxx~~ the opinion of that body is not binding on Govt so as to preclude the Bill being proceeded with in the Legislative Council, but this for consideration if the first stage can be dispensed with as is being done often. Even in case of Bills approved of by the R.A, objection seems to have been taken in the L.C for not taking the leave of the Council for the introduction of the measures'

7) Submitted for orders. To verify that the general principles of the bill were not approved by the RA the file may perhaps be sent to the RA Office

ARL 28/7

R.A. Leeson)

28/7

NOTE—Contn. sheet.

WD 0324 -GPB—60,000—24-5-27

C11

23

App. F. III—2]

General and Revenue Secretariat. | File No. of 192 .

Serial No.

Subd for orders 77)

Under section 99 of the Representative Regulations, the general principles underlying a Bill is to be placed before the R. A, before introducing it in the Legislative Council, and the opinion of the Assembly is to be ascertained.

78) Rules 8 to 12 page 4. vol II of the manual provide for the procedure for the discussion of the general principle

79) These provisions merely require that the opinion of the Assembly shall be ascertained. There is no provision precluding government from placing the Bill before the Legislative Council, if the Assembly is against the Bill.

80) The Bill may therefore be introduced into the Legislative Council.

81) The next question is whether a motion for leave to introduce the Bill under Rule 6 is to be made or whether under rule 8. the Bill may be published with the permission of the Dewan.

page 49 vol II

NOTE—Contn. sheet

See 4 d. D) 26/9

The Bill may be published with the permission of the Dewan.

VT 0424 -GPB-60,000-24-5-27

C. 11 / P 24

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

84) Permission to publish the Bill may be granted

Dewan 30/7

28 30/7

DEWAN'S OFFICE.
Received on
2 AUG. 1927
Ref No 1001

85) JMD 1-8-27

8 1.8. 28 3/8

86) Under Rule 8 of the Rules of Business of the Legislative Council the Secretary to the Legislative Council should publish the Bill. This may therefore be sent to the Secretary's Office. Rbd

Page 48 of Manual Vol II

Time 3/8/27 87) A Statement of Objects & Reasons has to accompany the Bill. A Draft Bill is put up for consideration, & the Statement of General Principles placed before the RA may be adopted for this purpose. After the Statement is approved, a Copy of the Bill & the Statement will be got typed for being sent to the L.C Office

28 6/8 88) Please type as indicated

28 4/8

Letter 89) Typed Statement of Objects & Reasons Rbd as directed

Time 10/8 A.C. 10/8

NOTE—Contn. sheet.

WD 0324 -GPB-60,000-24-5-27

D-147 CII 53-1927

General and Revenue Secretariat. File No. 17/8/27 of 192 .

Serial No.

90) A statement of objects & reasons is subd for approval.

Leg (D) 10/8

91) This statement may be approved. After the Bill is passed into Law King Emperor in Council is sore to apply its provisions to other parts of his Dominions.

Please bring it 10/8. 8/8

1326 11/8

1st number 8/ 11-8 8/ 11/8

92) 11/8 8/ 11.8. 8/ 13/8

93) Subd with typed copy of Bill and Statement of Objects and reasons with refce to para 87 supra

94) May be sent to L.C. Office for publication

95) Yes. The proof may be corrected here.

8/ 16/8

96) Draft notification subd. A copy of the notification and of the Bill will have to be sent to the Translator also.

16/8

Subd 16-8-27

97) Secy 16.8.27

Issue 17/8

OFFICE OF THE SECRETARY
16 AUG. 1927
REPRESENTATIVE [illegible]
TO
LEGISLATIVE COUNCIL

mr PSR for a draft

NOTE—Contn. sheet yes

16.8.27

D 0324—GPE—60,000—24-5-27

C.N. 2-147 25/8/27

General and Revenue Secretariat. | File No. of 192 .

Serial No.

110 A pet of proofs received from the Press now is put up for being passed on to the Pro. Branch (vide par 95 of the notes)

Subd

23.8.27 25.8.27

To the Protection Branch, with compliments.

111

The proof is corrected & put up

Press 24/8/27 May be returned to the L.C. Office

24/8

L.C. Office) 24/8

112

The corrected proofs recd from the Protection Branch will be sent to the Press now. Subd

113 Issue 24/8

24/8/27

24.8.27

Issued No. 181/L.C. Dt 24/8/27

114 File returned to the Protection Branch, with compliments.

25.8.27

25.8.27

The L.C Office may be requested to obtain & put up a few spare copies

OFFICE OF THE SECRETARY
24 AUG. 1927
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL
40 pm

NOTE—Contn. sheet

General and Revenue Secretariat. | File No. | of 192

Serial No.

Pol No 348 dated 16.9.27

To

The Secretary to the Resident

Forwards a copy of the Bill & States that will be placed before the Legislative Council in due Course.

No 9404/234-1923 of 22.9.27

From

The Secretary to the Resident

Says that there is no prima-facie objection to the introduction of the Bill & adds that a copy of the Bill as finally passed may be supplied.

III In para 2 it is suggested that in ~~para~~ clause 8 the marginal heading 'enforcement of Maintenance orders' may be inserted.

II The letter has been perused by the Chief Secy & Law Secy (Crim P.A.D)

Both. The marginal note to sec 8 will be inserted as suggested, if asked.

Pros 24/9/27

114 Filed for perusal.

A. may be done

27/39/29

NOTE—Contn. sheet

VD 0324—GPB—60,000—24-5-27

30 13

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

(20) Subd with the usual forms for permission to introduce the bill in the Legislative Council

Hme 8/11

DEWAN'S OFFICE. Received on 11. NOV. 1927 Reg. No. 31444

Secy (L. D) 8/11

37086/9/11

8/11

9/11

(21) 10/11

10/11

Dewan) 6/11

(22) 11/11/27

11.11

25/11/11

Levin 1/11

(23) Subd for orders with regard to gentlemen to form the Select Committee to consider the bill

Hme 29/11

Orders obtained accordingly

NOTE—Contn. sheet

General and Revenue Secretariat. | File No. of 192

Serial No.

investigations, to commit for trial and to try ~~in Cases~~ in Cases where European British Subjects are the accused.

127) The original bill relating to the Regulation of 1886 is herewith linked & Ld

Pom 19/12/24 Pom 19/12

128) With regard to the discussion in the Legislative Council on the question of jurisdiction of magistrates over European British subjects under the Cr. Pro. Code Regn and ~~with~~ particularly with regard to the ratification of 9th February 1904, which the papers placed below show the circumstances under which a similar notification was issued when the Regulation of 1886 was passed.

The papers ✠ marked G, B, M & H refer particularly to this.

These go to show that our Magistrates have powers Coordinate with those of the Bombay Magistrates & Madras Presidency magistrates.

5282/30/12

Secy L-D

129) This may be brought up for consideration at the time of the Select Committee. Meanwhile practice obtaining in Madras Presidency may be examined.

NOTE—Contn. sheet.

WD 0924 -GPB-60,000-24-5-27/24 Pom

1755/P. 33

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Maintenance Bill

Serial No.

130) I do not think it will be useful to ascertain Madras practice as the matter refers to an Act ~~passed~~ subsequent to the Residency Communications in question.

It seems to me to be on the whole most expedient to be quite ~~open~~ in the matter & to inform the Residency at once that in view of the explanation of the word 'jurisdiction' given in the Residency Commr's subsequent despatch (Hastings) we are proceeding with the Maintenance Bill on the assumption that the District referred to in clause 2 of the Bill is the District of the Dist. in which the party may be residing even though he happens to be a European British subject.

131) If Dewan agrees, please draft to Resident accordingly.

DC
31/12

Dewan

SS
31.12

132)

5356
4/1/28

NOTE—Contn. sheet.

22) Draft as altered
DC 4/1/28

SS 4.1.28 SS 4/1/28 Lew 4/1 I member)

SS 3.1.28.

DEWAN'S OFFICE.
Received on
31. DEC. 1927
Reg. No. 4153

WD 0824 -GPB—60,000—24-5-27

General and Revenue Secretariat. | File No. | of 192

Serial No.

134) Subd with draft to the Residency
Brie with refce to para 130 supra.
5.1.28.
Am 5/1

135 Please type
RS
5/1

Typed 6/1

136
Subd with typed draft.

5483/9/1

Brie
6.1.28.
Am 6/1

137 Draft to the Residency Subd
Secy & D)
RS
6/1

138 Draft is slightly modified & may perhaps be approved
1st item.
RS
7.1
RS
7.1

13. Refce to Draft.
Noe
9/1/28
RS
9.1
Brie
R
6/1

2 To 140
The Secy to the Resident
No Pol 802 D 11-1-28
States that the Govt are proceeding with the Bill in subsequent stages on the assumption that Dr Masters in Mysore can exercise jurisdiction under the proposed Regulation over European British subjects residing within their districts

NOTE—Contn. sheet

WD 0524—GPE—60,000—24-5-27

1755

35

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

21

The date for the P.C. meeting to consider the Bill in enforcement of Maintenance orders had been fixed as 11. 2. 1928.

142 Owing to Min engagements of the Members the date is reported to be inconvenient. The file may be sent to the P.A. to the Hon'ble Member for kindly fixing the date.

Sd
24/1/28.
Asst
24/1

P.A to I Member

Sd
26/1

143 If the 7th Feby may be fixed for the meeting.

Sd
24/1

Submd to Hon'ble Mr. Secy Proctor.

Sd
25/1

Keeps 27/

144

Filed with draft

Sd
28/1/28
Asst
28/1

Secy

Sd
30-1-28

Resumed.

145 The Personal Asst to the Hon'ble Member came & said that the date already fixed & intimated viz 11th Feby, need not be changed. So the Regt need not issue

Sd

NOTE—Contn. sheet.

WD 0324 -GPB-60,000-24-5-27

Sd
31/1

3818 36

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

From Sec'y to the Resident
NO 1175 Dt 2.2.28.
States that the hon'ble the Resident regrets that he is unable to confirm the assumption, and that the question whether has therefore been referred to the Govt of India and requests that further action on the Bill may kindly be held in abeyance until the receipt of a reply from them.

Made in this office letter of 11.1.28.

147

Submitted for perusal

4/2/28

The meeting of the Select Cmtee to consider the Bill has been fixed for the 11th instant. Pres for order if the meeting has to be adjourned, pending further reference from the Residency.

4/2

The meeting of the Select Committee may be deferred pending further communication from the Residency & the members of the S.C. with the exception of the Hon'ble Mr. Sastri informed that the meeting is adjd sine die.

4/2

Secy

15

This fortunate we took the Census. Meeting may be adjourned & members informed. Pleas submit to Dewan.

4/2

6/2/28

DEWAN'S OFFICE.
Received on
7 - FEB. 1928
No. 1407

6 3 Sq
6/2

NOTE—Contn. sheet.

157

7-2-28

Dewan

WD 0324 -GPB—60,000—24-5-27

3/

3816

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

152) Intimation that the meeting of the S.C. has been postponed until further notice was issued yesterday.

153) This file may be kept in Regt for the reply of the Residency.

pncc 154) The further reference from the 9/2 Residency will be awaited

AR 9/2

155) Jem 9/2

Letter no . dated .8. 2.28

From

Mr. E. W. Rutherford

States that he may not be able to be present at the S.C. meeting and submits certain suggestions regarding the Rice Re Enforcement of Rent Decrees Orders.

156) Rent Decrees orders Dated 9.2.28 on the P.H.D.

"Put up with the file"

157) Read as directed,

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

3937 39

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

for enforcement is contained in Clause 8 of the Bill

Dated

Para 11/2/28 Appx 11/2

It is the points raised by Mr. Rutherford may be considered after further Communication from the Residency is received.

Secy 13/2/28

14/2

8/14/2

6667/157

159 Loc 157

8/15/2/28.

157

8/8

No 5936/234-1923 dated 21.6.28

From

The Secy to the Resident

In Continuation of his letter of 2nd February 1928, states that if it is proposed that Magistrates should exercise orders under S. 8 against European Subjects, these rules should

NOTE—Contn. sheet

General and Revenue Secretariat. | File No. | of 192 ..

Serial No.

should follow the provisions of the Code of Civil Procedure for the execution of decrees. No said fee is invited to Cl 8 of the draft Bill. Rules for the enforcement of mainl. Lunacy orders passed or confirmed are proposed to be prescribed separately. Hence the execution proceedings are not here prescribed in the Civil Procedure Code. The result would be ~~exactly~~ perhaps the same as is applicable to foreign decrees. Under the circumstances the position requires to be considered.

Has the direction of A in the decree order of 1-1-28 been attended to? M 3076

Ruled for orders

Note 30.6.28. (1) Please pursue a copy of the K.C. proceedings containing the decisions in this Bill & also a copy of the British Act. M 3076

(1) is herewith pasted & ruled

(2) is in the file (placed)

Note 2.7.28. The Bill in its present form provides for reciprocity between

Regn and —

(1) the United Kingdom
(2) British Dominions outside the U.K.
(3) British Protectorates, and
(4) Indian

P.T.O.

NOTE—Contn. sheet

General and Revenue Secretariat. | File No. of 192

Serial No.

154 As Mysore is not a British Dominion or a British Protectorate, the Government of India stat that there can be no reciprocity between the -- United Kingdom and Mysore in view of the terms of Section 12 of the English Statute on the subject. For the same reason, British Dominions (other than British India) and British Protectorates will have also to be excluded from the purview of our Bill, unless legislation in these countries instead of following Section 12 of the English Statute provides for reciprocity with Indian States as Section 3 of the British Indian Act does. If they are so excluded the scope of reciprocity arrangements in which Mysore can enter will be limited only to other Indian States and British India.

155 Under the British Indian Act --Sections 4 (2) and 8 (1) - if the maintenance order is one passed by a Court of superior jurisdiction in the reciprocating country it is to be registered in a High Court in British India and enforced by that Court or by a Civil Court subordinate to it as if it were a decree passed in the exercise of its Civil jurisdiction; in other cases, the order is to be registered by a Court of Summary jurisdiction (i the Chief Presidency Magistrate or the District Magistrate as the case may be) and, according to Rule 8 of the Rules framed by the Government of

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

Serial No.

of India, enforced practically in the same manner as an order passed under Section 488 Criminal Procedure Code, whether it is an order of a Civil or a Criminal Court in the reciprocating country. In our Bill, Sections 4 (2) and 8 (1) of the British Indian Act have been omitted and while clause 4 is wide enough to permit of a maintenance order received from a reciprocating country being required to be registered in a Civil Court in Mysore, no provision is made for such court enforcing the order like a decree of that Court; and clause 8 provides that -- when the registering Court is a court of summary jurisdiction (i.e.a District Magistrate) it shall execute the order in the prescribed manner (i-e- un Section 488 Criminal Procedure Code, if the British Indian Rule is adopted here). The effect of the Bil is thus to make all such orders registrable by -- District Magistrates and enforceable by them in -- accordance with the provisions of Section 488 Criminal Procedure Code. The Government of India suggest that the District Magistrates when enforcing such orders against European British Subjects should follow the provisions of the Civil Procedure Code and that the rules to be prescribed under clause 8 shoul be framed accordingly. In connection with this suggestion three classes of maintenance orders have to be considered:-

Serial No.

considered:-

(a) Decrees for maintenance passed by Civil Courts after contest.

(b) ----do---- ex-parte, and

(c) Maintenance Orders passed by Criminal Courts.

As regards (a), Sections 43 and 44 of the Civil Procedure Code already provide for reciprocity betwee Mysore and other Indian States as well as British India and if the Bill is not intended to supersede these provisions that intention should be made clear.

The object of the Bill seems to be to meet only the other two classes of cases which are usually -- cases in which the responsibility for maintenance is attempted to be evaded and there is no reason why in enforcing this responsibility any distinction should be made between European British Subjects and others. If it is a decree of a civil court that is to be executed, civil courts in Mysore have jurisdiction to execute such decrees, irrespective of the party against whom it is to be executed is a European -- British Subject or not, and if it is an order of a Criminal Court there is no reason why a District Magistrate in Mysore should not enforce such an order against a European British Subject under Section 488 Criminal Procedure Code, as proceedings under Section 488 Criminal Procedure Code have been held to be not

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

General and Revenue Secretariat. | File No. of 192

Serial No.

not proceedings upon a complaint of an offence and the jurisdiction which a District Magistrate in Mysore would exercise in a case of this kind is not jurisdiction to enquire into or try a charge, (vide Government Notification No.124-34/Legis 12-03 dated 9th February 1904).

4. As regards Article 10 of the Mysore Treaty to which the Government of India invite attention, reciprocity arrangements will be entered into by correspondence through the Residency in the usual course and the Government of India may be informed accordingly.

5. The points for consideration are :-

(1) Whether the scope of reciprocity is to be limited only to other Indian States and British India or may include British Dominions (except the United Kingdom) and British Protectorates also,

(2) Whether Sections 4 (2) and 8 (1) of the British Indian Act may be incorporated in the Bill with suitable alterations,

(3) Whether it may not be necessary to make clear that the provisions of the Bill do not apply to decrees executable under Sections 43 and 44 of the Civil Procedure Code, and

(4) Whether in regard to the suggestion of the Government of India as to the procedure to be followed in enforcing maintenance orders against European

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

95/p/30

App. F. III—2]

General and Revenue Secretariat.

File No. of 192

Serial No.

European British Subjects it may be pointed out that the application of the procedure prescribed in Section 488, Criminal Procedure Code, to such cases will not involve any departure from Article 16 of the Mysore Treaty.

Secy

M 6/7

179 No motion has been made for the space of 2 years, and I think this has to be deemed to have lapsed under R. 9 of the Rules for the Conduct of business of the L.C.
If the matter is pressed by any member, action can be taken.

D.M. 6/7

3rd member

M 5/7/30

186/5/7 This seems to have been delayed for two years—
In the first letter of the Resident (dt/14.12.25) the suggestion was to legislate for reciprocity between Wales England. The Resident latest communication from the Resident points out that there can be no reciprocity between the United Kingdom & Wales

NOTE—Contn. Sheet.

Serial No.

and Mysore in this respect, since the British Act does not provide for it.

(3) The bill, if passed, will therefore have effect only in respect of Br. India (since, as far as we are aware no other legislature, Indian or British possessions, has passed such legislation providing for reciprocity)

(4) As regards Br. India, there is already power for mutual enforcement of maintenance orders passed by Civil Courts. The proposed legislation is therefore really required only in respect of maintenance orders passed by Magistrates under Sec 488 Cr. Pr. Code. We do not think it advisable that Magistrates should exercise jurisdiction over European British subjects & as regards Br. Indian subjects, we have not had any cases.

(5) The proposed legislation is therefore not really necessary at present — it may be dropped. The bill has already lapsed.

Please submit to the Dewan

[illegible]
7.7.30

(Dewan)

[illegible]
9.7.30

DEWAN'S OFFICE
8- JUL 1930

WD 01684—GPB—30,000—20-4-29

Serial No.

This may be sent to d.c. - Office for ~~return~~ information and return

Prue 10/7 (Lt. Rasse with compts)

Noted and ptd to the Prot. Bill as at

11/7/30

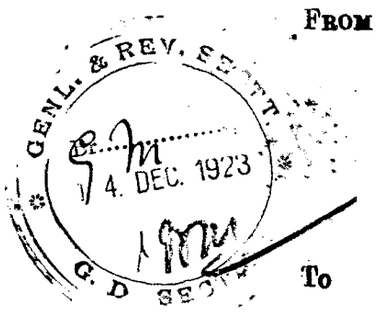
OFFICE OF THE SECRETARY
M. P. S. A.
10. JUL. 1930
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL.

WD 01684—GPB—30,000—20-4-29

Pol 855 — 2642 P — 48 fn 3704

R. O. 2.—R. P. B.—5—1922.—5,00

No. 10415 Enc. 3
234-1923.



From A. N. L. Cater, Esq., I.C.S., P.P. to G.G. —

SECRETARY TO THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 14th December *1923*

Subject:—

ENFORCEMENT OF MAINTENANCE ORDERS.

SIR,

I am directed to forward, for the information of the Government of Mysore, a copy of the papers noted on the margin, and to request that the Resident may be favoured with the views of the Mysore Government on the question of reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders.

1. Notifications of the Government of India, Home Department, No.F-120, dated the 6th March 1922, regarding the application of the English Maintenance Orders (Facilities for Enforcement) Act, 1920, to British India and of the Indian Maintenance Orders Enforcement Act, 1921, to England and Ireland.

2. Rules made under the English Maintenance Orders (Facilities for Enforcement) Act, 1920.

3. Notification of the Government of India, Home Department, No.120-22, dated the 22nd September 1923, publishing rules made under section 12 of the Indian Maintenance Orders Enforcement Act, 1921.

2. As regards reciprocity between British India and the Mysore State, it is observed that, so far as civil decrees of maintenance are concerned, necessary provision already exists, but that the execution in British India of maintenance orders passed in the Mysore State under the Code of Criminal Procedure seems to require to be provided fo

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RESIDENT

No.F.120-Jud. 2. 49

Government of India.
Home Department.
Delhi, the 6th March 1922.

---:0:---

N o t i f i c a t i o n.

The following Order of His Majesty in Council extending the Maintenance Orders (Facilities for Enforcement) Act, 1920, to British India, published in the London Gazette of the 7th February 1922, is republished for general information:-

AT THE COURT AT BUCKINGHAM PALACE,

The 6th day of February 1922.

Present,

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas by the Maintenance Orders (Facilities for Enforcement) Act, 1920, provision has been made for the enforcement in England and Ireland of maintenance orders made by a Court in any part of His Majesty's Dominions outside the United Kingdom to which the said Act extends:

And whereas by the said Act it is amongst other things provided that where His Majesty is satisfied that reciprocal provisions have been made by the Legislature of any part of His Majesty's Dominions outside the United Kingdom for the enforcement within that part of maintenance orders made by Courts within England and Ireland, His Majesty may by Order in Council extend the said Act to that part, and thereupon that part shall become a part of His Majesty's Dominions to which the said Act extends:

And whereas His Majesty is satisfied that the Legislature of British India being a part of His Majesty's Dominions outside the United Kingdom has made reciprocal provisions for the enforcement within those parts of maintenance orders made by Courts within England and Ireland:

NOW, THEREFORE, His Majesty, by virtue and in exercise of the powers by the above recited Act in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:-

The Maintenance Orders (Facilities for Enforcement) Act, 1920,

and

shall apply to British India.

And the Right Honourable Edwin Samuel Montagu, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

Almeric FitzRoy

Sd. S. P. O'Donnell,
Secretary to the Government of India.

---:0:---

No.F.120-Judicial.
Government of India.
Home Department.
Delhi, the 6th March 1922.

N o t i f i c a t i o n.

WHEREAS the Governor General in Council is satisfied that the legislature of the United Kingdom of Great Britain and Ireland, being part of His Majesty's Dominions outside British India, has made provision for the enforcement, within England and Ireland, of maintenance orders made by courts in British India;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 3 of the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921), the Governor General in Council is pleased to declare that the said Act shall apply in respect of England and Ireland.

Sd. S. P. O'Donnell,
Secretary to the Government of India.

---:0:---

"C O P Y"

REGISTRAR, RESIDENT'S OFFICE.

BJ

No. J. & P. 4333-22, dated the 24th August 1922.

From—The Secretary, Judicial and Public Department, White Hall, London, S.W. 1.

To—The Secretary to the Government of India, Home Department.

Rules under the Maintenance Orders (Facilities for Enforcement) Act 1920.

With reference to your letter no. 37 of 1922-F. 120-Judicial, dated the 25th May last, I am directed by the Secretary of State for India to transmit herewith for the information of the Government of India 5 copies of a circular letter addressed by the Home Office on the 9th instant to Clerks to Justices regarding the Maintenance Orders (Facilities for Enforcement) Act 1920 and 5 copies of the Lord Chancellor's rules under that Act.

With reference to Rule 6 of the Lord Chancellor's rules, I am directed to state that the Secretary of State is advised that it is desirable that Indian Courts when transmitting orders and papers should indicate the description and address of the official to whom money is to be sent.

J. & P. 4333-22.

HOME OFFICE,

WHITE HALL,

9th August 1922.

Maintenance Orders (Facilities for Enforcement) Act 1920.

SIR,

I am directed by the Secretary of State to transmit to you herewith, for your guidance and information, a copy of the rules made provisionally by the Lord Chancellor under section 7 of the Maintenance Orders (Facilities for Enforcement) Act, 1920, and to say that it is proposed to make final rules in the same form when the statutory requirements have been satisfied. These rules regulate the procedure of Courts of Summary Jurisdiction in (*a*) registering and enforcing under section 1 of the Act orders made in His Majesty's dominions overseas, and (*b*) confirming and enforcing under section 4 provisional orders sent them from this Office.

2. When it is desired to enforce under section 2 of the Act, an order made in this country against a defendant who is resident overseas, a certified copy of the order should be forwarded to this Office with a statement giving the full address and personal description of the defendant to which his photograph should, if possible, be attached.

3. When an order is made *provisionally* under section 3 against a defendant who is resident overseas, the evidence taken at the hearing must be put in the form of depositions (including a statement as in the foregoing paragraph) and sent to the Secretary of State, with a certified copy of the order and a statement of the grounds on which it might have been opposed if the defendant had appeared in obedience to a summons duly served on him (*see* section 3 (3). Such an order should show clearly on the face of it that it is "provisional," *i.e.*, that it is made under section 3 of the Maintenance Orders (Facilities for Enforcement) Act. It is impossible at present to say what may be the requirements of overseas Courts with regard to orders sent to them for confirmation, and in particular what amount of evidence will be required by them, but in every case it will be necessary to send a statement of the grounds on which the making of the order might have been opposed if the defendant had appeared in answer to a summons. This statement should take the form of a certificate signed by a magistrate having cognizance of the case and the Secretary of State thinks that it may be of assistance to you in considering

what form that certificate should take; to have the copy appended hereto of such a statement which has been received at this Office in a case where a wife applied for maintenance on the ground of her husband's desertion—which is probably the case that is most likely to arise under the Act. A certificate of marriage should generally be attached to the depositions as an exhibit in proof of the marriage.

4. The Secretary of State is advised that a provisional order made by an overseas Court will take effect, subject to any modification by the confirming Court, from the date on which it is confirmed in this country and that an order registered by a Court of Summary Jurisdiction under section 1 will have full retrospective effect from the date specified in the original order or if no such date is specified, from the date of the order.

5. The Secretary of State would suggest that magistrates before confirming an order for the payment of a weekly sum in currency other than sterling, should consider the desirability of modifying the order so as to make the weekly sums payable in sterling, and thus avoid the difficulty arising from the fluctuating rate of exchange.

6. It is hoped that monies paid by a defendent overseas in pursuance of an order to which section 2 or 3 applies, will generally be forwarded to the Clerk of the Court by whom the order was made and may then be paid to the complainant in such manner as may be arranged in the particular case. The name and address of the Clerk of the Court should, therefore, be given in any provisional order made under section 3, and should be notified to this Office in regard to any order transmitted under section 2.

7. It should be noted that "Maintenance Orders" under the Act do not include affiliation orders.

8. No regulations have been made under section 5 of the Act.

9. A list is appended of the parts of His Majesty's dominions and the British Protectorates to which the Act has already been applied by Orders in Council under section 12.

I am,

Sir,

Your obedient Servant,

JOHN ANDERSON.

SUGGESTED STATEMENT UNDER SECTION 3 (3) OF THE ACT.

In the [county of Petty Sessional Division of

A. B.

v.

C. B.

The grounds upon which the making of the Order herein might have been opposed in the said C. B. had been duly served with a summons and had appeared at the hearing, are :—

1. That he was not married to the said A. B.
2. That his marriage to the said A. B. was void in law.
3. That a decree of divorce or of nullity of marriage had been pronounced by a competent Court.
4. That a decree of judicial separation or an Order having the effect of such a decree was in force at the time of the said hearing.

5. That he and his wife A. B. were living apart by mutual consent or agreement.

6. That his wife had deserted him.

7. That A. B. had committed adultery which had not been condoned, connived at, or by wilful misconduct or neglect conduced to, by him.

8. That he had reasonable cause to leave his said wife.

Given under my hand and seal this ..... day of .....192 at the ..... Court aforesaid.

J. P.,

Justice of the Peace for the [*County of* .....].

PARTS OF HIS MAJESTY'S DOMINIONS AND BRITISH PROTECTORATES TO WHICH THE ACT HAS BEEN EXTENDED BY ORDERS IN COUNCIL.

AFRICA—

Ashanti.
Bosutoland.
Bechuanaland Protectorate.
Gambia.
Gold Coast.
Gold Coast (Northern Territories).
Mauritius.
Nigeria (Colony and Protectorate).
Nyasaland.
*Rhodesia, Northern.
*Rhodesia, Southern.
Somaliland Protectorate.
Swaziland.
Uganda Protectorate.
Zanzibar Protectorate.

AMERICA—

Bermuda.
Falkland Islands.
Grenada.
Leeward Islands.
St. Lucia.
St. Vincent.
Trinidad and Tobago.

ASIA—

*British India.
Ceylon.
Cyprus.
Hong Kong.
Straits Settlements.

AUSTRALASIA—

Gilbert and Ellice Islands.
*New Zealand.
*Queensland.
*Tasmania.
*Western Australia.

EUROPE—

Gibraltar.
Malta.

NOTE.—The Crown Agents for the Colonies do not act for the places marked with an asterisk, and remittances for payment there cannot be made though them—*vide* Rule 6.

The Act has also been extended to the Isle of Man.

FOR OFFICIAL USE.

J. & P. 4333-22.

Maintenance orders (Facilities for Enforcement) Act, 1920.

(10 & 11 Geo. 5, c. 32)

PROVISIONAL RULES MADE BY THE LORD CHANCELLOR.

1. The copy of an Order made by a Court outside the United Kingdom and received by the Secretary of State under section 1 of the Maintenance Orders (Facilities for Enforcement) Act, 1920, shall, unless the Order was made by a Court of Superior Jurisdiction, be sent,

(*a*) if the defendant is alleged to be living within a division assigned to one of the Metropolitan Police Courts, to the Chief Clerk of that Court, or, if the Secretary of State so directs, to the Chief Clerk of Bow Street Police Court;

(*b*) if he is alleged to be living in any district for which a Stipendiary Magistrate is specially appointed to the Clerk to that Magistrate;

(*c*) if he is alleged to be living within the City of London, to the Chief Clerk at the Mansion House Justice Room; and

(*d*) if he is alleged to be living elsewhere, to the Clerk to the Justices acting for the Petty Sessional Division or the Borough within which he is living.

2. The copy of a Provisional Order made by a Court outside the United Kingdom and received by the Secretary of State under section 4 of the Act shall be sent to a Court of Summary Jurisdiction in the manner provided by the foregoing Rule, with the accompanying documents and a requisition for the issue of a summons.

3. The Clerk to whom any Order is sent in accordance with the above Rules shall enter it in his register on the date on which he receives it in the same manner as though the Order had been made at his Court, distinguishing it from the other entries in such manner as he may find most convenient, so as to show that it is entered in pursuance of the Act.

4. When an Order provisionally made outside the United Kingdom has been confirmed with or without modification, under section 4 of the Act, by a Court of Summary Jurisdiction, or the Court has decided not to confirm it, the Clerk of the Court shall send notice thereof to the Court from which it issued, and also to the Secretary of State.

5. When an Order has been registered in a Court of Summary Jurisdiction under section 1 of the Act, or a Provisional Order has been confirmed by a Court of Summary Jurisdiction under section 4, that Court shall, unless satisfied that it is undesirable to do so, direct that all payments due thereunder shall be made through an officer of the Court, or such other person as it may specify for the purpose. Such direction may be given without any complaint or application, the provisions of Rule 46 of the Summary Jurisdiction Rules, 1915, notwithstanding.

6. The person through whom the payments are directed to be made shall collect the monies due under the Order in the same manner as though it were an affiliation Order, and may take proceedings in his own name for enforcing payment, and shall send the monies, when so collected to the Court from which the Order originally issued.

Provided that if the Court from which the Order originally issued is in Malta or in a Colony not possessing responsible Government or in a British Protectorate other than Northern or Southern Rhodesia, the monies so collected shall be paid to the Crown Agents for the Colonies for transmission to the person to whom they are due.

7. When a Provisional Order made under section 3 of the Act has been remitted under sub-section (4) of that section to a Court of Summary Jurisdiction for the purpose of taking further evidence, notice specifying the further evidence required and the time and place fixed for taking it shall be sent by the Clerk of the Court to the person on whose application the Provisional Order was made.

8. These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) Provisional Rules, 1922.

I hereby certify, under the Rules Publication Act, 1893, that, on account of urgency, these Rules should come into operation forthwith, and I make the said Rules to come into operation forthwith as Provisional Rules.

Dated the 4th day of August, 1922.

Birkenhead, C.

389HD—620—4-10-22—GCPS

No. F.-120-22-Judl.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

JUDICIAL.

Simla, the 22nd September 1923.

NOTIFICATION.

In exercise of the powers conferred by section 12 of the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921), and in supersession of the notification of the Government of India in the Home Department no. F.-120, dated the 11th May 1922, the Governor-General in Council is pleased to make the following rules :—

1. These rules may be called the Maintenance Orders Enforcement Rules, 1923.

2. In these rules the expression "the Act" means the Maintenance Orders Enforcement Act, 1921. XVIII of 1921.

3. The officer to whom copies of maintenance orders shall be sent under sub-section (1) of section 4 of the Act shall be, in the case of a High Court, the Registrar of such Court, and, in the case of a Court of summary jurisdiction, the presiding officer of such Court.

4. When such copy is received by the Registrar or officer, the contents thereof shall be entered in a register maintained for the purpose in the form shown in the Schedule to these rules.

5. The notice referred to in sub-section (4) of section 6 of the Act shall be issued to the person who applied under sub-section (1) of that section ; it shall contain particulars of the further evidence which is required by the Court in the reciprocating territory, and shall also state the date when the further evidence will be taken.

6. The officer of a Court of summary jurisdiction to whom the documents referred to in sub-section (1) of section 7 of the Act may be sent under the provisions of that sub-section shall be the presiding officer of such Court.

7. (1) When an order has been registered under rule 4, the party in whose favour the order has been made shall be entitled to appear, either in person or by pleader or duly authorised agent, before the High Court or Court of summary jurisdiction in which the order has been registered, or, as the case may be, before the Civil Court named by such High Court under sub-section (1) of section 8 of the Act, and to move such Court to enforce the order.

(2) If within a period of one month from the date of the registration of the order, or, as the case may be, of its transfer to the Civil Court named by the High Court no such appearance has been made, the High Court, Civil Court or Court of summary jurisdiction, as the case may be, shall appoint an officer of the Court to apply for execution of the order, and such officer shall be entitled to obtain execution thereof on behalf of the person in whose favour the order has been made, and shall pay into the Court any monies realised in execution of the order :

Provided that the appointment of such officer shall cease to have effect in the event of the subsequent appearance under sub-rule (1) of the party in whose favour the order has been made.

8. A Court of summary jurisdiction shall exercise in respect of a maintenance order registered or confirmed by it under the Act the powers conferred on it by sub-section (3), excluding the provisos thereto, and sub-section (7) of section 488 of the Code of Criminal Procedure, 1898, in respect of an order passed by it under sub-section (1) of that section.

9. (1) During the pendency of proceedings under the Act or these rules with reference to a maintenance order made in reciprocating territory, whether such order be provisional or otherwise, the person against whom the order has been made shall without delay notify the Court in which such proceedings are pending of any change in his address.

(2) The Court shall at the outset of all such proceedings give notice to such person of the obligation imposed by sub-rule (1).

10. The charges referred to in section 9 of the Act, and the sum in rupees required for the purchase of a draft for the amount of the sum awarded as maintenance in sterling or other non-rupee currency shall be assessed by the Court at the time of the registration or confirmation of the order, as the case may be, and any sum recovered in excess as the result of such assessment from the person against whom the order has been made shall be refunded to such person.

11. A Court recovering any sum on account of maintenance in accordance with a maintenance order registered or confirmed by it under the Act shall forthwith cause the said sum to be remitted by the local head office or branch of the Imperial Bank of India, or, where there is no such local head office or branch, by any other agency which the Court considers suitable, to the Clerk of the Court from which the order has been received or such other officer or person as may be specified by that Court for that purpose.

12. (1) For every summons requiring the attendance of a witness or the production of a document which is issued by a Court of summary jurisdiction in the course of proceedings under section 6 or section 7 of the Act, there shall be charged to the person at whose instance the summons is issued such fee as would be chargeable for the issue of a like summons in a proceeding under section 488 of the Code of Criminal Procedure, 1898.

(2) For any process issued in the course of proceedings taken in pursuance of section 8 of the Act there shall be chargeable, in the case of proceedings in a High Court or of a subordinate Civil Court named by a High Court, such fee as would be chargeable for the issue of a like process in the course of the execution of a decree of such Court, and, in the case of proceedings in a Court of summary jurisdiction, such fee as would be chargeable for the issue of a like process in the course of proceedings under section 488 of the Code of Criminal Procedure, 1898.

(3) Fees of the nature referred to in sub-rule (2) shall not be chargeable in advance but the amount thereof shall be added to the amount to be recovered from the person against whom the order has been made.

(4) The amount of the actual expenditure incurred in sending a certified copy of the record to the Governor General in Council under sub-section (6) of section 7 of the Act and in its subsequent transmission to the Court which made the provisional order, shall be recovered from the applicant for the rescission or variation of that order as confirmed, and the confirming Court may decline to send the copy for transmission until the probable amount of such expenditure has been deposited by the applicant:

Provided that any excess of an amount so deposited over the actual expenditure shall be refunded to the applicant.

13. When a Court of summary jurisdiction has under sub-section (4) of section 7 of the Act confirmed with or without modification a provisional

maintenance order made by a Court in reciprocating territory or has decided not to confirm such order, notice of such confirmation or decision, as the case may be, shall be sent to the Court from which the order issued and to the Governor General in Council.

SCHEDULE (referred to in rule 4).

Register of maintenance orders made by Courts outside British India for enforcement in British India.

Serial no.	Name of the Court making the order.	Nature of the order with particulars as to parties.	Name and address of the person against whom the order is made.	Amount recoverable.	Date of order.	Date of receipt of the order by Court in India.	Date of issue of notice of order.	Dates of recovery of any amount due under the order.	Date of despatch of money for remittance under rule 11.

C. W. GWYNNE,

Offg. Joint Secretary to the Government of India.

317HD—802—24-9-23—GCPS

To

The Secretary to the Hon'ble the Resident.

Sir,

With reference to your letter No. 10415/234-1923 dated 14th December 1923 re. reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders, I am directed to state that the Govt. of H.H. the Maharaja of Mysore have no objection to introduce legislation in the matter.

I have etc.,

Secy.to Govt.,L.L.Depts.

A Bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa.

Whereas it is expedient to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa; It is hereby enacted as follows:-

Short title and extent.
~~Definitions.~~

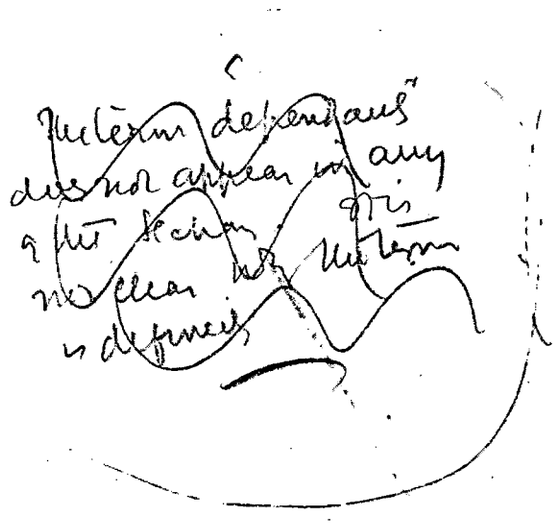
1.(1) This Regulation may be called the Maintenance Orders Enforcement Regn. 192...

(2) It extends to the whole of Mysore.

Definitions.

2. In this Regn. unless there is anything repugnant in the subject or context,--

"Court of summary jurisdiction" means the Court of a District Magistrate;



"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the --- periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Regulation;

"Proper authority" means the authority

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appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Regn. applies; and

"reciprocating territory" means any part of His Majesty's Dominions in respect of which this Regn. for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by courts in Mysore, the Govt. may by notification in the Gazette of Mysore declare that this Regn. applies in respect of that part of His Majesty's Dominions and thereupon it shall apply accordingly.

(2) The Govt. may, by like notification, declare that this Regn. applies in respect of any British protectorate, or in respect of any State in India, and where such a declaration has been made, this Regn. shall apply as if such protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders made in other parts of His Majesty's Dominions.

4. Where a maintenance order has, whether before or after the passing of this Regn., been made against any person, by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Govt., the Govt. shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and,

on receipt thereof, the order shall be registered, in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a Court in Mysore has, whether before or after the commencement of this Regn, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Govt. for transmission to the proper authority of that territory, a certified copy of the order.

Power of Summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(3) Where such an order is made, the Court shall send to the Govt. for transmissio to the proper authority of the reciprocating

territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like condition as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Govt. and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction to vary or rescind that order;

Provided that, on the making of a varying or rescinding order, the court shall send a

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certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore.

7.(1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been ~~transmitted to the~~ made is resident in ~~British~~ Mysore ~~India~~, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of

its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case

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to the court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or ~~x~~ variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Govt. for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

~~Enforcement maintenance orders.~~

~~(8)~~(1) Subject to the provisions of this Regn. where an order has been registered under this Regn. in the Chief Court the order shall, from the date of such registration, be of the same force and effect and all proceedings may be taken hereon as if it had been an order originally obtained

Enforcement of maintenance orders.

8. A Court of summary jurisdiction in which an order has been registered under this Regn. or by which an order has been confirm under this Regn., and the officers of such

Court, shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A court in registering or confirming an order for maintenance in accordance with the provisions of this Regn. shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been ~~received~~ made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purpose of this Regn, any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory ~~am~~ may, for the purposes of this Regn, be received in ---

evidence in proceedings before Courts of summary jurisdiction under this Regn.

Depositions to be evi

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Regn, and in particular may make rules for the levy of the costs or charges for anything done under this Regn. and for all matters which are directed or permitted to be prescribed.

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Bill to facilitate the enforcement i.. Mysore of Maintenance Orders made in His Ma Magesty's dominions and protectorates and Vice Versa.

Statement of Objects and reasons.

Decrees for maintenance passed by Civil Courts in Mysore or in British India or the United Kingdom may be evaded by the judgment debtor crossing the border from one territory to the other. Orders under Section 488 of the Criminal Procedure Code passed in British India or in Mysore cannot be enforced in Mysore or in British India respectively.

To facilitate the enforcement of maintenance orders made in other parts of His Magesty's Dominions, Maintenance Orders (facilities for enforcement) Act of 1920 was passed in the United Kingdom and a similar Act XVIII of 1921 was passed in British India.

Under those Acts His Majesty the King in Council or the Governor General in Council as the case may be, may extend the provisions of those Acts to any part of His Magesty's dominions where a similar provision is made by its legislature. These Acts provide a simple procedure for the mutual enforcement of the orders of maintenance in those parts of His Majesty's dominions which reciprocate. This bill is intended for introducing a similar measure in Mysore in order to afford facilities for enforcing in the British Dominions orders of maintenance made by courts in Mysore and vice versa.

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Statement of general principles of the Bill to facilitate the enforcement in Mysore of maintenance Orders made in His Magesty's dominions and protectorates and vice versa.

Decrees for maintenance ~~asked~~ passed by Civil Courts in Mysore or in British India or the United Kingdom may be evaded by the judgment debtor crossing the border from one territory to the other ~~or delay may be caused in the execution of such decrees~~. Orders under Section 488 of the Criminal Procedure Code passed in British India or in Mysore cannot be enforced in Mysore or in British India respectively.

maintenance orders made in Dki parts of H.M. Dominions,

~~To obviate this disadvantage and to offer~~ facilities for the enforcement of Maintenance Orders (facilities for enforcement) Act of 1920 was passed in the United Kingdom and a similar Act XVIII of 1921 was passed in British India.

Under those Acts His Magesty the King in Council or the Governor General in Council as the case may be, may extend the provisions of those Acts to any part of His Magesty's dominions where a similar provision is made by its legislature These Acts provide a simple procedure for the mutual enforcement of the orders of maintenance in those parts of His Magesty's dominions which reciprocate. The introduction of a similar measure in Mysore would afford facilities for enforcing in the British Dominions orders of maintenance made by courts in Mysore, and British India or vice-versa. It is therefore proposed to introduce a Bill similar to the Acts in force in the United Kingdom and British India.

This Bill is intended for adopting & enforcing a similar measure in Mysore in order to

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Draft Final Note.

In the submission note dated 2nd October 1924 a draft letter to the Residency in respect of the reciprocity between the Mysore State and England in regard to the enforcement of maintenance orders was -- submitted for His Highness' gracious --- approval. Upon His Highness' gracious approval the letter to the Residency was issued.

A Draft Bill on the lines of the British Indian Act No. XVIII of 192[illegible] is prepared and a statement of the general -- principles of the Bill ~~will~~ be placed - before the Representative Assembly ~~before the Bill is placed before the Legislative Council.~~ is submitted for H. H.'s gracious approval. ~~The action proposed to be taken may be graciously approved.~~

After the approval of H. H. the Bill will be placed before the R. A.

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REGISTERED No. L 848.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 8, 1921.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Indian Legislature assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 30th September, 1921, and is hereby promulgated for general information :—

ACT No. XVII OF 1921.

An Act further to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient further to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows :— I of 1871.

1. (*1*) This Act may be called the Cattle-trespass (Amendment) Act, 1921. Short title and commencement.

(*2*) This section shall come into force at once.

(*3*) The rest of the Act shall come into force in any Province or part thereof on such date as the Local Government may, by notification in the local official Gazette, appoint.

2. For section 12 of the Cattle-trespass Act, 1871, the following section shall be substituted, namely :— I of 1871. Substitution of new section for section 12, Act I of 1871.

"12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale for the time being prescribed by the Local Government in this behalf by notification in the official Gazette. Different scales may be prescribed for different local areas. Fines for cattle impounded.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government may direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound."

3. Section 5 of the Cattle-trespass Act (1871) Amendment Act, 1891, is hereby repealed. I of 1891. Repeal.

H. MONCRIEFF SMITH,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th October, 1921, and is hereby promulgated for general information :—

Act No. XVIII of 1921.

An Act to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates and vice versa.

WHEREAS it is expedient to facilitate the enforcement in British India of Maintenance Orders made in other parts of His Majesty's Dominions and Protectorates, and *vice versa*; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Maintenance Orders Enforcement Act, 1921.

Short title and extent.

(*2*) It extends to the whole of British India including the Southal Pargannas and British Baluchistan.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

"Court of summary jurisdiction" means the Court of a Chief Presidency Magistrate or of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintenance order" means a decree or order, other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"Proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty's Dominions outside British India in respect of which this Act for the time being applies.

3. (*1*) If the Governor General in Council is satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by Courts in British India, the Governor General in Council may, by notification in the Gazette of India, declare that this Act applies in respect of that part of His Majesty's Dominions, and thereupon it shall apply accordingly.

Reciprocal arrangements.

(*2*) The Governor General in Council may, by like notification, declare that this Act applies in respect of any British protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such protectorate or State were a reciprocating territory.

4. (*1*) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Governor General, the Governor General in Council shall send a copy of the order to the prescribed officer of a Court in British India for registration, and, on receipt thereof, the order shall be registered in the prescribed manner.

Registration in British India of maintenance orders made in other parts of His Majesty's Dominions.

(*2*) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of the Governor General in Council, a Court of superior jurisdiction, be a High Court, and, if the Court was not, in his opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction.

5. Where a Court in British India has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Governor General in Council, for transmission to the proper authority of that territory, a certified copy of the order.

Transmission of maintenance orders made in British India.

6. (*1*) Where application is made to a Court of summary jurisdiction in British India for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

Power of Summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions outside British India.

(*2*) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(*3*) Where such an order is made, the Court shall send to the Governor General in Council, for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Governor General in Council and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Governor General in Council for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of British India.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in British India, and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Governor General and it appears to the Governor General in Council that the person against whom the order has been made is resident in British India, the Governor General in Council may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in British India, confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for that purpose send a certified copy of the record to the Governor General in Council for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

Enforcement of maintenance orders.

8. (1) Subject to the provisions of this Act, where an order has been registered under this Act in a High Court, the order shall, from the date of such registration, be of the same force and effect, and all proceedings may be taken thereon as if it had been an order originally obtained in the High Court in the exercise of its civil jurisdiction, or in such Civil Court subordinate to that High Court as may be named by the High Court in this behalf, and that Court shall have power to enforce the order accordingly.

(2) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such Court, shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act, any document purporting to be signed by a judge or officer of a Court outside [British India] shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this [Act.]

Rule-making power.

12. The [Governor General in Council] may make rules for the purpose of carrying into effect the purposes of this [Act,] and in particular may make rules for the levy of the costs or charges for anything done under this [Act] and for all matters which are directed or permitted to be prescribed.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

OFFICE OF THE SECRETARY
3 SEP 1927
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.

93-70

OFFICE OF THE *EX-OFFICIO* SECRETARY,
LEGISLATIVE COUNCIL.

No. 169—*L. C., dated* 18*th August* 1927.

Under rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and *vice versa*, is published for general information with the statement of objects and reasons.

By Order,
B. NAGAPPA,
Ex-officio *Secretary*,
Legislative Council.

A Bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and *vice versa*; it is hereby enacted as follows:—

Short title and extent.

1. (1) This Regulation may be called the Maintenance Orders Enforcement Regulation, 192.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

"Court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintence order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

'prescribed" means prescribed by rules made under this Regulation;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Regulation applies; and

"reciprocating territory" means any part of His Majesty's Dominions in respect of which this Regulation for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by courts in Mysore, the Government may by notification in the Gazette of Mysore declare that this Regulation applies in re pect of that part of His Majesty's Dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Regulation applies in respect of any British protectorate, or in respect of any State in India, and where such a declaration has been made, this Regulation shall apply as if such protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty's Dominions.

4. Where a maintenace order has, whether before or after the passing of this Regulation, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government the Government, shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered; in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a Court in Mysore has, whether before or after the commencement of this Regulation, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and as certaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction to vary or rescind that order;

Provided that, on the making of a varying or rescinding order, the court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under Sub-Section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just;

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for recission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders

8. A Court of summary jurisdiction in which an order has been registered under this Regulation or by which an order has been confirmed under this Regulation and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A court in registering or confirming an order for maintenance in accordance with the provisions of this Regulation shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Regulation any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Regulation, be received in evidence in proceedings before Courts of summary jurisdiction under this Regulation.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Regulation, and in particular may make rules for the levy of the costs or charges for anything done under this Regulation and for all matters which are directed or permitted to be prescribed.

STATEMENT OF OBJECTS AND REASONS.

Decrees for maintenance passed by Civil Courts in Mysore or in British India or the United Kingdom may be evaded by the judgment-debtor crossing the border from one territory to the other. Orders under Section 488 of the Criminal Procedure Code passed in British India or in Mysore cannot be enforced in Mysore or in British India respectively.

To facilitate the enforcement of maintenance orders made in other parts of his Majesty's Dominions, Maintenance Orders (facilities for enforcement) Act of 1920 was passed in the United Kingdom and a similar Act XVIII of 1921 was passed in British India.

Under those Acts His Majesty the King in Council or the Governor-General in Council, as the case may be, may extend the provisions of those Acts to any part of His Majesty's Dominions where a similar provision is made by its legislature. These Acts provide a simple procedure for the mutual enforcement of the orders of maintenance in those parts of His Majesty's dominions which reciprocate. This bill is intended for introducing a similar measure in Mysore in order to afford facilities for enforcing in the British Dominions orders of maintenance made by courts in Mysore and *vice versa*.

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Fol 348
To Esqre

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~~P.W.D. 24-3.~~

2.16/9/27

The Secy to the Govt

Resident

Sir,

I am directed to forward herewith a copy of the bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa and to state that it will be placed before the legislature council in due course.

I have &c

WD 2230—GPB—1,00,000—23-7-20

Gen. Sec.

1755 P 927.

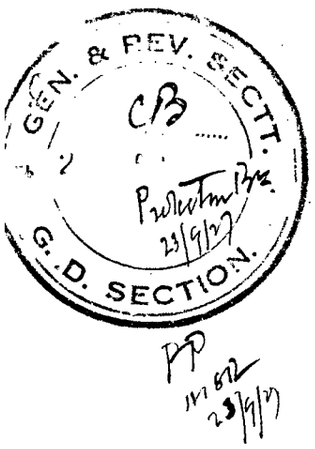
All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 9704 Enc. 73
234-1923.

09300
26
CD 1446

From

Major K. A. G. Evans Gordon, PP 48-24-4
SECRETARY TO THE RESIDENT IN MYSORE.



PP
1111 672
23/9/27

To

Legis 403 P/1

The General Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 22 Sept. 1927

Subject.

BILL TO FACILITATE THE ENFORCEMENT IN MYSORE OF MAINTENANCE ORDERS MADE IN HIS MAJESTY'S DOMINIONS AND PROTECTORATES AND VICE VERSA.

Sir,

I am directed to acknowledge the receipt of your letter No. Pol.348/PP.48-24-3, dated the 16th September 1927, and to say that there is no prima facie objection to the introduction of the Bill as proposed.

2. Since it appears that the provisions of the Bill have been framed on the model of the Maintenance Orders Enforcement Act, 1921, perhaps, as in section 8 of this Act, a marginal heading "Enforcement of Maintenance Orders" may be inserted against section 8 of the Bill.

3. Ten copies of the Bill, as finally passed, may be supplied for communication to the Government of India and for the use of this office.

I have the honour to be,
Sir,
Your most obedient servant,

K. Evans Gordon

Major.
SECRETARY TO THE RESIDENT.
SIR

Sir,
This may be transferred to the Political Branch.
2/10/27

22/9

8/10/27.

7427

G. R. S. VI—P-2]

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Dewan of Mysore.

Dated, Bangalore, November 1927.

No.

Mr. K. Chandy, B.A., Member of the Mysore Legislative Council, is hereby permitted to introduce a bill to facilitate the enforcement of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa

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at a meeting of the said Council, subject to the rules for the time being in force under the Mysore Legislative Council Regulation, 1923.

K. Chandy

Dewan of Mysore.

in charge - 11-11-27.

75

28

G. R. S. VI—P-1].

PUBLIC OFFICES BUILDINGS.

Dated, Bangalore, November 1927

FROM

Rajasabhabhushana K.Chandy Esq.,B.A.,
First Member of Council,
Bangalore.

To

Amin-ul-Mulk Mirza M.Ismail Esq.,O.B.E.,C.I.E.,
Dewan of Mysore.

SIR,

I beg to request your sanction in writing under section 9 (i) of Regulation XIX of 1923 for introducing a bill to facilitate the enforcement of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa,

at a meeting of the Mysore Legislative Council.

I have the honor to be,
Sir,
Your most obedient servant,

K. Chandy

Member.

Pol. 802 dated 11/1/28.
Legis 40.27-2

To

The Secretary to the Hon'ble 76/28
the Resident in Mysore.

Sir,

With reference to the correspondence ending with your letter No.9704/234-1923, dated the 22nd September 1927, re the Bill to facilitate the Enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and -- Protectorates and Vice Versa, I am directed to state that a question was raised at the time of the first reading of the Bill in the Legislative Council whether such a Regulation would give to District Magistrates in the -- Mysore State jurisdiction over European British subjects.. The Government are of opinion that in view of the ~~explanation~~ definition of the ~~word~~ expression 'Jurisdiction' contained in the letter No. ~~'Jurisdiction' given in Cert.~~ Notification No. 20 dated the 7th April 1886, issued in -- accordance with your ~~letter~~ No.482/1895, dated the 4th March 1886, the District Magistrates in the State ~~can~~ Can exercise jurisdiction under the proposed Regulation over European British subjects residing within their Districts.

102/ B (M) 482/1895 dated 4th March 1886

2. I am to state that on this assumption the Government are proceeding with the Bill in its subsequent stages.

I have, etc.,

8/6/1

Secretary to Government,
Law Department.

KNN

10/ Pros JMJ

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE 77

General and Revenue Secretariat 30

Dated, Bangalore, ... *192*...

No.

From

B. NAGAPPA, Esq., Bar-at-Law.
Secretary to the Government of His Highness the Maharaja of Mysore
Law ~~xxxxxxxxxxxxx~~ *Local and Legislative Departments*

To

The Secretary to the Hon'ble the Resident in Mysore.

Sir,

With reference to the correspondence ending with your letter No. 9704/234-1923, dated the 22nd September 1927, re the Bill to facilitate the Enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and Vice Versa, I am directed to state that a question was raised at the time of the first reading of the Bill in the Legislative Council whether such a Regulation would give to District Magistrates in the Mysore State jurisdiction over European British subjects. The Government are of opinion that in view of the definition of the expression 'Jurisdiction' contained in your letter No.482/1895, dated the 4th March 1886 and on the strength of which Notification No.20 dated the 7th April 1886 was issued, the District Magistrates in the State can exercise jurisdiction under the proposed Regulation over European British subjects residing within their Districts.

2. I am to state that on this assumption the Government are proceeding with the Bill in its subsequent stages.

I have the honor to be,

Sir,

Your most obedient servant,

Secretary to Government,
Law Department.

KNN

Pol 994 3 8/6 p82/

78

19194

No.1175 Bangalore, 2nd February 1928.

31

From

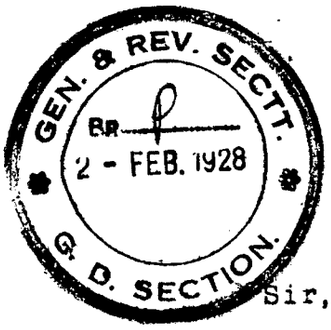
Major K.A.G. Evans Gordon,

SECRETARY TO THE RESIDENT IN MYSORE.

To

The Secretary to the Government of His Highness the Maharaja of Mysore,

Law Department.



Subject:- THE MAINTENANCE ORDERS ENFORCEMENT BILL.

Sir,

I am directed to refer to your letter No.Pol.802/ -- Legis. 40-27-2, dated the 11th January, 1928, regarding the Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty's Dominions and Protectorates, and Vice Versa.

2. In reply I am to state that the Hon'ble the -- Resident regrets that he is unable to confirm the assumption in your letter that District Magistrates in the Mysore State can exercise jurisdiction under the proposed Regulation over European British subjects residing within their districts. The question is therefore being referred to the Government of India; and it is requested that further action on the Bill may kindly be held in abeyance until the receipt of a reply from them.

I have the honour to be,
Sir,
Your most obedient servant,

K Evans Gordon

Major
SECRETARY TO THE RESIDENT.

ASB.

Pairup with file

3967
P 827

Ubban Estate
BALLUPETE.P.O
Hassan District

8th Febuary 1928

32

Dear Mr Chandy,

As unexpected weather,which has upset my crop prep-
-arations here,may if it continues make it impossible for me to attend the Special Committee Meeting on the 11th inst,when the draft of the "Maintenance" Regulation is to be gone into.I write this in case I ~~xx~~ cannot get down to Bangalore on that day,as I should like the under-
-mentioned matter,with reference to the said Regulation to be placed before the Committee.

(1) I am of an opinion that the Regulation is most necessary.

(2) Personally I do not see any great objection to these matters going before an Indian Judge,but I do not care for the proposal to send a decree of the English High Court to a Magistrate,or that the orders of ~~xxx~~ the Mysore Chief Court,should be sent to a Magistrate, and not to ~~the~~ a High Court. I should like to see the Regulation make it quite clear,that only Magistrates orders should be en-
-forced by Magistrates,and that our English High Court orders--(i,e, our Divorce Court) ought only to be enforced by the Chief -- Court. I note that ~~xxxxxxxxxx~~ in ~~xxx~~ Act No XVIII of 1921 of British Indian act,~~xxx~~ sections are included that refer to above but that these ~~xxxxxx~~ are deleted from the Mysore Regulation,as it now stands. &vice-versa

(2). It appears to me that section 4,of Regulation,is defective,in that it only provides for Registration of order and says nothing about how to enforce them.

(3) I conclude that ~~xxxxxxxxxxx~~ the English Act will no doubt be be placed before the meeting,See section ~~one~~ 1 of the Act.

(4) When leave to introduce thie Measure was asked at the last Sessions of the Council, I gleaned that the matter of the pro-
-ceedure when an European British Subject was concerned,loamed largely in the debate.Surely this is a matter outside the pur-
-view of the ~~Committee~~ Committee,as one may take it that the Government ~~x~~ of Mysore,when Regulation is passed,will if necessary ~~act~~

introduce measures to meet the question. 33

In my humble opinion the passing of the present measure, will be the recognition of our Mysore Courts, as on a par with those elsewhere, though the issue concerned may mean that one will have to also bring our Penal Code, into line.

I hope you will excuse my sending the above to you, but I am sorry I do not know who is the Secretary of the Select Committee, so that I could have sent it to him to lay before you.

yrs sincerely

E W Rutherford

To/

Rajasabhabhushana K.Chandy

President of Committee.

34566

6093

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

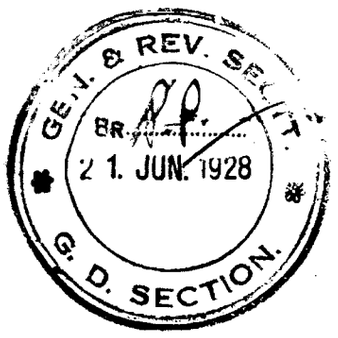
No. 5936 ENC.
234-1923.

Pol. 1555

80

34

A. C. Lothian, Esquire, I.C.S.,
SECRETARY TO THE RESIDENT IN MYSORE.



To

The Secretary to the Government of Mysore,
Law Department.

Dated Bangalore, 21st June *1928*

Subject.

The Maintenance Orders - Enforcement Bill.

SIR,

I am directed to refer to the correspondence ending with Major Evans-Gordon's letter No.1175, dated 2nd February, 1928, regarding the Maintenance Orders Enforcement Bill and to say that the Government of India have no objection to the Bill but that if it is proposed that District Magistrates should execute orders under section 8, against European British subjects, these rules should follow the provisions of the Code of Civil Procedure for the execution of decrees.

2. The Government of India observe that the Mysore Government propose to enter into arrangements with reciprocating countries for the enforcement under the proposed Regulation of maintenance orders made in reciprocating territories. Such territories may be (1) any part of His Majesty's Dominions, (2) British protectorates, and (3) States in India. The Government of India invite attention to Article 10 of the Treaty concluded on the 26th November, 1913, between the British Government and the Maharaja of Mysore, and remark that while they do not wish to press for a restriction

35 81

to be recited in the Regulation of the Mysore State, they trust the Mysore Government will recognise that relations with any of the three classes of territories mentioned must in every case be subject to the control of, and conducted through, the Paramount Power. They point out moreover that, as the law stands, there can be no reciprocation between the United Kingdom and the Mysore State, since an Indian State cannot be regarded as a British protectorate for the purposes of section 12(2) of the Maintenance Orders (Facilities for Enforcement) Act, 1920 (10 and 11 Geo. 5, c.33). The expression "British protectorate" as used in the Maintenance Orders (Facilities for Enforcement) Act, 1920, has a specialised meaning which is inapplicable to the status of Indian States, though such States may fall within the wider and more general expression "territories under His Majesty's protection", c.f. section 4 of the Air Navigation Act, 1920 (10 and 11 Geo.5), and section 28 of the Copyright Act, 1911 (1 and 2 Geo. 5, c.46). Hence the express distinction between British protectorates and States in India which is set out in the Maintenance Orders Enforcement Act, 1921 (Act No.XVIII of 1921), which is the counterpart for British India of the English Statute cited above.

I have the honour to be,

Sir,

Your most obedient servant,

SECRETARY TO THE RESIDENT.

BJ